

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAURICE KENDRICK,

Plaintiff,

Case No. 10-50185
HON. GEORGE CARAM STEEH

vs.

INTERNAL REVENUE SERVICE,

Defendant.

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ORDER ACCEPTING AND ADOPTING REPORT AND RECOMMENDATION [#4] AND
DISMISSING ACTION

I. INTRODUCTION

Before the court is Magistrate Judge Donald A. Scheer's report and recommendation, dated July 20, 2010. The magistrate judge recommended that this action be dismissed for want of prosecution. No objection has been filed as of the date of this order.

II. FACTUAL BACKGROUND

On February 12, 2010, plaintiff filed a petition seeking to quash a summons issued by defendant seeking information from plaintiff concerning a tax return from an unnamed individual. Plaintiff was ordered to show cause in writing why this action should not be dismissed for lack of prosecution due to plaintiff's failure to serve a summons and copy of the complaint upon defendant within one hundred and twenty (120) days from the date the

petition was filed. See Fed. R. Civ. P. 4(i) and 4(m). Plaintiff failed to file a response to the court's show cause order.

III. ANALYSIS

The standard of review to be employed by the court when examining a report and recommendation is set forth in 28 U.S.C. § 636. This Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). This Court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." *Id.*

The court finds that the magistrate judge reached the correct conclusion for the proper reasons. Plaintiff has failed to meet his burden to demonstrate good cause to justify his failure to effect timely service. This action is dismissed for want of prosecution. See Fed. R. Civ. P. 4(m).

IV. CONCLUSION

For the reasons set forth above, Magistrate Judge Donald A. Scheer's report and recommendation [#4] is accepted and adopted as this court's findings and conclusions of law.

This action is dismissed without prejudice.

SO ORDERED.

Dated: October 12, 2010

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on October 12, 2010, by electronic and/or ordinary mail and to Maurice Kendrick at 15832 Lasalle Blvd., Detroit, MI 48238.

S/Josephine Chaffee
Deputy Clerk